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**Subject:** Once In Always In (OIAI)

Folks,

Just an FYI for those of you working on MACT cases impact by the OIAI policy change.

Greg

## EPA Gets Day in Court to Defend Toxic Air Pollution Stance

Posted Feb. 20, 2019, 11:23 AM

By [Amena H. Saiyid](#)

- Oral arguments set for April 1 before D.C. Circuit
- Lawsuit revolves over relaxing toxic air pollution controls for industries that emit below a threshold

The EPA will get its day in court April 1 to defend relaxing toxic air pollution control requirements for power plants, refineries, and other industrial sources that bring their emissions below certain thresholds.

The U.S. Court of Appeals for the District of Columbia Circuit on Feb. 19 scheduled oral arguments in a lawsuit brought by environmental groups challenging the Environmental Protection Agency's new policy.

Clean Air Act emissions control requirements for toxic air pollution kick in for large industrial facilities that emit at least 10 tons per year of a single hazardous pollutant or 25 tons of two or more air toxics. Facilities emit below that limit don't have to meet the most stringent pollution control requirements.

The EPA had previously said that large industrial facilities must continue to operate their toxic air pollution controls even if they eventually reduced their emissions below the threshold for regulation, EPA air chief Bill Wehrum in a January 2018 [memo](#) reversed that 1995 policy.

The EPA plans to issue a proposed rule this year that builds on that memo. The policy is supported in court by national industry groups representing industrial boilers, electric utilities, oil companies chemical manufacturers, and automakers.

Challenging the EPA in court will be California and a coalition of environmental groups that sued the agency in March. They claimed the EPA's change in approach is illegal because it was made without public comment and would result in increased toxic air pollution.

The case being heard is Calif. Cmities. Against Toxics v. EPA, D.C. Cir., No. 18-1085, 2/19/19.